Item 65
[5577]

STATE OF CALIFORNIA — Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 20, 2006

To: The Commission
(Meeting of April 27, 2006)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1250 (Perata) Energy: cost-effective energy efficiency programs: renewable energy resources.**
As introduced February 8, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support with technical amendments

SUMMARY:

SB1250 would remove language from Section 399 of the public utilities code requiring the California Energy Commission (CEC) to create a renewable energy investment plan for monies deposited into the Renewable Resource Trust Fund and the Public Interest Research, Development and Demonstration Fund, as well as language requiring that these monies be held in these respective funds pending action by the legislature. Passage of this legislation would allow the CEC to implement its 2006 investment plan regarding the allocation of monies collected from the public goods charge between January 1, 2007 and January 1, 2012, to support renewable energy development in the state through the CEC's Renewable Energy Program. SB 1250 would also allow energy efficiency monies to be used to provide incentives for the purchase of new energy efficient refrigerators. The bill would also eliminate the Governor's independent panel, appointed pursuant to the Reliable Electric Service Investment Act, to review the use of PGC funds to support energy efficiency, renewable energy, as well as research, development, and demonstration programs. Of these issues, this analysis will focus principally on the CEC's 2006 renewable energy investment plan given its implications on the availability of Supplemental Energy Payments and other subsidies that are available to support development and operation of least-cost, best-fit renewable resources pursuant to the Renewable Portfolio Standard (RPS) program.

RECOMMENDED AMENDMENTS:

Remove existing prohibitions, instituted pursuant to SB 1038, on the transfer of funds between program elements under the CEC's Renewable Energy Program, thus allowing the program to be more responsive to changes in market conditions that render initial allocations of funding incorrect.

DIVISION ANALYSIS (DSP):

The CEC's Renewable Energy Program is divided into four elements or accounts: the New Renewable Facilities Program, the Emerging Renewable Facilities Program, the Existing Renewable Facilities Program, the Consumer Education Program, and the Consumer Credit Program (discontinued in 2003). The recommended renewable energy program funding allocations identified in the CEC's investment plan are as follows:

	SB 1038 2002-2007 (Excluding Interest)	Share of 2002-2007 Renewable Energy Funding	CEC 2006 Investment Plan 2007-2011	Share of 2007 – 2011 Renewable Energy Funding
New Renewable Facilities Program	347.63	51.5%	285	38%
Emerging Renewable Facilities Program	118.12	17.5%	360	48%
Consumer Education Program	6.75	1%	30	4%
Customer Credit Program	67.5	10%	0	0
Existing Renewable Facilities Program	135	20%	75	10%
Total	675	100%	750	100%

These allocations represent a relative reduction, compared to the allocation pursuant to SB 1038, in the share of funding provided to the New Renewable Facilities Program as well as a reduction in the share of funding allocated to the Existing Renewable Facilities Program. These reductions in effect "pay for" the large increase in the share of PGC funds allocated to the Emerging Renewable Facilities account.

The New Renewable Facilities account represents the pool of funds from which Supplemental Energy Payments (SEPs), used to pay for the above market costs of renewable energy procured pursuant to the RPS, are drawn. The reduction in the allocation of funds to the New Renewable Facilities program is justified by the CEC on the basis of two different rationales. First the CEC suggests that demand for SEP funds is likely to be such that the share of PGC funds necessary to support new renewables

can be reduced. In support of this position, the CEC notes that no projects that have been selected through RPS solicitations to date have required SEP funding.[1] Second, the CEC observes that the prospect of higher gas prices will raise the market price referent, the benchmark against which projects are compared for purposes of determining SEP eligibility.

Both observations are suggestive of reduced need for SEP funds. In addition to this line of reasoning, the CEC also notes that given the one-way flexibility that currently exists in terms of how funding can be shifted between program elements after the initial allocation, it is prudent to assign a greater share of funding into the Emerging Renewable facilities element because if necessary, these funds can be shifted back into the New Renewable Facilities account. Under SB 1038, monies that are assigned to the New Renewable Facilities account cannot be subsequently reallocated, so there is substantial option value associated with allocating more funds into the Emerging Renewable Account, especially given the great deal of uncertainty regarding the ultimate need for SEP funds to support the RPS. Although the initial allocation may reduce the share of funds available to provide SEPs compared to the allocation under SB 1038, this allocation is not the final word on how much funding will actually be available.

The caveats the CEC provides in their investment plan regarding the uncertainty around demand on SEP funds are compelling, and therefore the CEC should remain mindful of and responsive to indications that the amount of funding available for SEPs as proposed in their investment plan is insufficient. For example, if projects selected in current or future RPS solicitations require SEP funds, the price of gas declines or fails to increase as predicted, there is extensive contract failure associated with already signed contracts, renewable technology costs increase, or the state adopts a 33% renewable energy target, the CEC should reassess the allocation of funds and redistribute monies back into the New Renewable Facilities account accordingly.

The proposed investment plan also reduces the share of funds allocated to the Existing Renewable Facilities Program account. This reduction is justified on the basis of the apparent economic viability of existing wind facilities, independent of subsidies, and the relatively lower levels of subsidies required to support existing central station solar thermal electric facilities and existing solid-fuel biomass facilities compared to the subsidy levels assumed to be necessary under SB 1038. This assessment is based on the level of payments from the Existing Renewable Facilities Program during the past few years, as well as estimates of the operating costs of existing solar thermal facilities, as well as the availability of the federal production tax credit and capacity payments to support solid-fuel biomass facilities. For biomass facilities in particular, the analysis appears to indicate that many of these facilities require relatively limited subsidization from the Existing Renewable Facilities Program. While the CPUC does not dispute the CEC's analysis and conclusion that these facilities do not appear to require substantial

[1] Because no SEPs were paid out, a total of $633 million is available for SEPs, representing the balance of funds, $348 million left over from the 2002 – 2007 period and an additional $285 million allocated over the 2007-2011 period.

subsidies to the degree assumed under SB 1038, this conclusion is not without uncertainty. The inability to shift funds into the Existing Renewable Facilities account from other renewable facilities program accounts, pursuant to SB 1038, means that if it turns out that these facilities do in fact require more subsidies than envisioned by the CEC's investment plan, there would be no way of increasing the available funding from other programs, possibly leading some of these facilities to shut down despite the possibility that they could very well be least-cost renewable resources. From an option value perspective, increasing the amount of funding in the Existing Renewable Facilities Program account above what the CEC has predicted to be necessary might be prudent since these predictions are characterized by uncertainty and, furthermore, if it turns out these funds are unnecessary, they can be reallocated to where they are needed.

This bill would remove the prohibition on funding energy efficiency refrigerator purchases through public goods charge funds. Staff believes that this is a logical step to provide more flexibility for funding cost-effective energy efficiency measures.

Finally, this bill would also eliminate the Governor's panel to review the use of public goods charge monies to support energy efficiency, renewable energy, as well as research, development and demonstration programs. Staff believes that both the CEC and CPUC both have internal protocols that provide adequate review of how these monies are spent. An independent review panel, appointed by the Governor, adds a duplicative and therefore unnecessary level of oversight.

PROGRAM BACKGROUND:

The RPS program was established by SB 1078 and required the Investor Owned Utilities, Energy Service Providers (ESPs), Community Choice Aggregators (CCAs), small utilities, and multi-jurisdictional utilities to acquire 20% of the energy in their portfolios from renewable resources by 2017. The deadline for achieving the 20% target was subsequently accelerated to 2010 following the adoption of the Energy Action Plan by the CEC and CPUC in May 2003. In the interest of limiting the costs of the program to ratepayers, the RPS statute provides for Supplemental Energy Payments to cover the above market costs of renewable energy generated by new renewable facilities, defined as those facilities that began commercial operations on or after January 1, 2002 or have been repowered and re-commenced operation on or after January 1, 2002. Under this approach, the per unit energy costs of renewable projects selected through RPS solicitations are compared to a market price referent. If these costs are in excess of the MPR, the difference is paid for through SEPs, contingent on approval by the CEC. These funds are drawn from the New Renewable Facilities Program account of the CEC's Renewable Energy Program, itself financed by the Renewable Resource Trust Fund from funds collected through a non-bypassable public goods charge on utility customer bills.

In addition to new renewable facilities, existing renewable facilities play an important role in the ability of the obligated entities to achieve their RPS goals. Prior to the implementation of the RPS, the obligated entities were already procuring some share of their portfolios from renewable facilities, for example through qualifying facility contract signed pursuant to the Public Utilities Regulatory Policy Act. For the IOUs these existing facilities contribute to their RPS baselines, representing the amount of renewable generation that they already procure, and thus critical in determining how much more they need to procure in order to reach the 20% goal. Existing facilities are currently supported through subsidies paid for out of the Existing Renewable Facilities Program, also part of the CEC's Renewable Energy Program, through a system of technology specific subsidies that decline over time.

In January of 2006, the CPUC created the California Solar Initiative, earmarking approximately $2.9 billion in ratepayer funding to offset the installation costs of solar photovoltaics as well as solar hot water and heating and cooling systems. The PUC is responsible for overseeing the majority of the California Solar Initiative (CSI); however, the CEC will oversee one component of the program to focus on builders and developers of new housing, to encourage solar installations in the residential new construction market. The CEC's efforts in this area are financed through the Emerging Renewable Facilities Program. As with the New Renewable Facilities Program and the Existing Renewable Facilities Program, the Emerging Renewable Facilities Program is also part of the CEC's Renewable Energy Program. In a May 2005 decision (D.05-05-011), the CPUC determined that energy produced by renewable DG facilities could count toward RPS goals, provided the output from the facilities can be measured.

LEGISLATIVE HISTORY:

SB 1038 (Sher) – Chapter 515, Statutes of 2002 – Set forth existing Investment Plan guidelines.

STATUS:

SB 1250 passed out of the Senate Energy, Utilities and Communications on April 4, 2006 on a vote of 7-0 and is now pending hearing in the Senate Appropriations Committee.

SUPPORT/OPPOSITION (as of 4/4/06)

Support:

California Biomass Energy Alliance
Southern California Edison, with amendments

Opposition:

None on file.

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BILL LANGUAGE:

BILL NUMBER: SB 1250 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Perata
(Coauthor: Assembly Member Levine)

FEBRUARY 8, 2006

An act to amend Sections 399.6, 399.7, and 399.8 of, and to amend and repeal Sections 399 and 399.4 of, the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as introduced, Perata Energy: cost-effective energy efficiency programs: renewable energy resources.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge". The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. The moneys collected by the public goods charge for renewable energy are required to be transferred to the State Energy Resources Conservation and Development Commission (Energy Commission), for deposit in the Renewable Resource Trust Fund. The moneys collected by the public goods charge for public interest research and development are required to be transferred to the Energy Commission, for deposit in the Public Interest Research, Development, and Demonstration Fund.

Existing law requires the PUC, in evaluating energy efficiency investments under its existing statutory authorities, to ensure that no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.

This bill would delete that refrigerator purchase restriction.

Under the Reliable Electric Service Investments Act, the Energy Commission is required to hold moneys collected for renewable energy and deposited in the Renewable Resource Trust Fund and moneys collected for public interest research, development, and demonstration and deposited in the Public Interest Research, Development, and Demonstration Fund, until further action by the Legislature. The act requires the Energy Commission to create an

initial investment plan, in accordance with specified objectives, to govern the allocation of funds in the Renewable Resource Trust Fund and Public Interest Research, Development, and Demonstration Fund, collected between January 1, 2002, and January 1, 2007. The act requires the Energy Commission, on or before March 31, 2006, to prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012, in accordance with specified objectives.

This bill would delete these requirements.

The Reliable Electric Service Investment Act requires the Governor to appoint an independent review panel to prepare and submit to the Legislature and Energy Commission, by January 1, 2005, a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded by the public goods charge and to make recommendations relative to specified matters.

This bill would delete these requirements.

The Reliable Electric Service Investment Act was enacted in 2 separate bills, each containing identical language.

This bill would repeal duplicative sections of the act.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399 of the Public Utilities Code, as added by Section 4 of Chapter 1050 of the Statutes of 2000, is amended to read:

399. (a) This article shall be known, and may be cited, as the Reliable Electric Service Investments Act.

(b) The Legislature finds and declares that safe, reliable electric service is of utmost importance to the citizens of this state, and its economy.

(c) The Legislature further finds and declares that in order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is essential that prudent investments continue to be made in all of the following areas:

(1) To protect the integrity of the electric distribution grid.

(2) To ensure an adequately sized and trained utility workforce.

(3) To ensure cost-effective energy efficiency improvements.

(4) To achieve a sustainable supply of renewable energy.

(5) To advance public interest research, development and demonstration programs not adequately provided by competitive and regulated markets.

(d) It is the intent of the Legislature to reaffirm, without requiring revision, California's doctrine, as reflected in regulatory and judicial decisions, regarding electrical corporations' reasonable opportunity to recover costs and investments associated with their electric distribution grid and the reasonable opportunity to attract capital for investment on reasonable terms.

(e) The Legislature further finds and declares all of the following:

(1) Acting under applicable constitutional and statutory authorities, the Public Utilities Commission and the boards of local publicly owned electric utilities have included in regulated electricity prices, investments that are essential to maintaining system reliability, reducing California electricity users' bills, and mitigating environmental costs of California users' electricity consumption.

(2) Among the most important of these "system benefits" investments categories are energy efficiency, renewable energy, and public interest research, development and demonstration (RD&D).

(3) Energy efficiency investments funded from California's usage-based charges on electricity distribution help improve systemwide reliability by reducing demand in times and areas of system congestion, and at the same time reduce all California electricity users' costs. These investments also significantly reduce environmental costs associated with California's electricity consumption, including, but not limited to, degradation of the state' s air, water, and land resources.

(4) California's in-state renewable energy resources help alleviate supply deficits that could threaten electric system reliability, reduce environmental costs associated with California's electricity consumption, and increase the diversity of the electricity system's fuel mix, reducing electricity users' exposure to fossil-fuel price volatility.

(5) California's public-interest research, development and demonstration (RD&D) investments enhance private and regulated sector investment in electricity system technologies, and are designed specifically to help ensure sustained improvement in the economic and environmental performance of the distribution, transmission, and generation and end-use systems that serve California electricity users.

(6) California has established a long tradition of recovering system benefits investments through usage-based electricity charges, which is reflected in at least two decades of electricity price regulation by the commission, the boards of local publicly owned electric utilities, and the mandate of the Legislature in Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the 1995-96 Regular Session of the Legislature) and Chapter 905 of the Statutes of 1997 (Senate Bill 90 of the 1995-96 Regular Session of the Legislature).

(7) Unless the Legislature acts to extend the mandate of Chapter 854 of the Statutes of 1996 *and the Reliable Electric Service Investments Act* for minimum levels of usage based system benefits charges, California electricity users are at substantial risk of higher economic and environmental costs and degraded reliability.

SEC. 2. Section 399 of the Public Utilities Code, as added by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

~~399. (a) This article shall be known, and may be cited, as the Reliable Electric Service Investments Act.~~

~~(b) The Legislature finds and declares that safe, reliable electric service is of utmost importance to the citizens of this state, and its economy.~~

~~(c) The Legislature further finds and declares that in order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric~~

~~service, it is essential that prudent investments continue to be made in all of the following areas:~~

~~(1) To protect the integrity of the electric distribution grid.~~

~~(2) To ensure an adequately sized and trained utility workforce.~~

~~(3) To ensure cost-effective energy efficiency improvements.~~

~~(4) To achieve a sustainable supply of renewable energy.~~

~~(5) To advance public interest research, development and demonstration programs not adequately provided by competitive and regulated markets.~~

~~(d) It is the intent of the Legislature to reaffirm, without requiring revision, California's doctrine, as reflected in regulatory and judicial decisions, regarding electrical corporations' reasonable opportunity to recover costs and investments associated with their electric distribution grid and the reasonable opportunity to attract capital for investment on reasonable terms.~~

~~(e) The Legislature further finds and declares all of the following:~~

~~(1) Acting under applicable constitutional and statutory authorities, the Public Utilities Commission and the boards of local publicly owned electric utilities have included in regulated electricity prices, investments that are essential to maintaining system reliability, reducing California electricity users' bills, and mitigating environmental costs of California users' electricity consumption.~~

~~(2) Among the most important of these "system benefits" investments categories are energy efficiency, renewable energy, and public interest research, development and demonstration (RD&D).~~

~~(3) Energy efficiency investments funded from California's usage-based charges on electricity distribution help improve systemwide reliability by reducing demand in times and areas of system congestion, and at the same time reduce all California electricity users' costs. These investments also significantly reduce environmental costs associated with California's electricity consumption, including, but not limited to, degradation of the state's air, water, and land resources.~~

~~(4) California's in-state renewable energy resources help alleviate supply deficits that could threaten electric system reliability, reduce environmental costs associated with California's electricity consumption, and increase the diversity of the electricity system's fuel mix, reducing electricity users' exposure to fossil-fuel price volatility.~~

~~(5) California's public-interest research, development and demonstration (RD&D) investments enhance private and regulated sector investment in electricity system technologies, and are designed specifically to help ensure sustained improvement in the economic and environmental performance of the distribution, transmission, and generation and end use systems that serve California electricity users.~~

~~(6) California has established a long tradition of recovering system benefits investments through usage-based electricity charges, which is reflected in at least two decades of electricity price regulation by the commission, the boards of local publicly owned electric utilities, and the mandate of the Legislature in Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the 1995-96 Regular Session of the Legislature) and Chapter 905 of the Statutes of 1997 (Senate Bill 90 of the 1995-96 Regular Session of the Legislature).~~

~~(7) Unless the Legislature acts to extend the mandate of Chapter 854 of the Statutes of 1996 for minimum levels of usage based system benefits charges, California electricity users are at substantial risk of higher economic and environmental costs and degraded reliability.~~

SEC. 3. Section 399.4 of the Public Utilities Code, as added by Section 4 of Chapter 1050 of the Statutes of 2000, is amended to read:

399.4. (a) (1) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall continue to administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority.

(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers' bills, and reduce system needs.

(b) The commission, in evaluating energy efficiency investments under its existing statutory authorities, shall also ensure ~~both of the following:~~ *that local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.*

~~(1) That local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.~~

~~(2) That no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.~~

SEC. 4. Section 399.4 of the Public Utilities Code, as added by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

~~399.4. (a) (1) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall continue to administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority.~~

~~(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers' bills, and reduce system needs.~~

~~(b) The commission, in evaluating energy efficiency investments under its existing statutory authorities, shall also ensure both of the following:~~

~~(1) That local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program~~

~~portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.~~

~~(2) That no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.~~

SEC. 5. Section 399.6 of the Public Utilities Code is amended to read:

399.6. (a) In order to optimize public investment and ensure that the most cost-effective and efficient investments in renewable resources are vigorously pursued, the Energy Commission shall create an investment plan as set forth in paragraphs (1) to (3), inclusive, to govern the allocation of funds provided pursuant to this article. The Energy Commission's long-term goal shall be a fully competitive and self-sustaining California renewable energy supply. The investment plan shall be in accordance with all of the following:

(1) The investment plan's objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(2) An additional objective of the plan shall be to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance.

(3) The investment plan shall contain specific numerical targets, reflecting the projected impact of the plan, for both of the following:

(A) Increased quantity of California electrical generation produced from emerging technologies and from overall renewable resources.

(B) Increased supply of renewable generation available from facilities other than those selling to investor-owned utilities under contracts entered into prior to 1996 under the federal Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

(b) The Energy Commission shall, on an annual basis, evaluate progress on meeting the targets set forth in subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or any substitute provisions adopted by the Legislature upon review of the investment plan, and assess the impact of the investment plan on reducing the cost to Californians of renewable energy generation.

(c) In preparing these investment plans, the Energy Commission shall recommend allocations among all of the following:

(1) (A) Except as provided in subparagraph (B), production incentives for new renewable energy, including repowered or refurbished renewable energy.

(B) Allocations may not be made for renewable energy that is generated by a project that remains under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter.

(C) Notwithstanding subparagraph (B), production incentives for incremental new, repowered, or refurbished renewable energy from existing projects under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, may be allowed in any month, if all of the following occur:

(i) The project's power purchase contract provides that all energy delivered and sold under the contract is paid at a price that does

not exceed commission-approved short-run avoided cost of energy.

(ii) Either of the following:

(I) The power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive.

(II) If a project's installed capacity as of December 31, 1998, is less than 75 percent of the nameplate capacity as stated in the power purchase contract, the power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the product of the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive, and the ratio of installed capacity as of December 31 of the previous year, but not to exceed contract nameplate capacity, to the installed capacity as of December 31, 1998.

(iii) The production incentive is payable only with respect to the kilowatthours delivered in a particular month that exceeds the corresponding five-year average calculated pursuant to clause (ii).

(2) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.

(3) Customer credits for renewables not under contract with a utility.

(4) Customer education.

(5) Incentives for reducing fuel costs that are confirmed to the satisfaction of the Energy Commission at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including, but not limited to, air quality.

(6) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for purposes of this paragraph.

(7) Specified fuel cell technologies, if the Energy Commission makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the investment plan.

(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.

(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of renewable energy.

(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliable and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable,

as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.

(d) The commission shall establish a cap on the aggregate amount of funds that may be awarded to public entities from the program that provides customer credits for renewables. The intent of the cap is to assure adequate funding of credits for residential and small commercial customers.

(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission ~~, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature regarding the appropriateness and structure of a mandatory state purchase of renewable energy. On or before March 31, 2006, the Energy Commission shall prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action~~ .

SEC. 6. Section 399.7 of the Public Utilities Code is amended to read:

399.7. (a) In order to ensure that prudent investments in research, development and demonstration of energy efficient technologies continue to produce substantial economic, environmental, public health, and reliability benefits, it is the policy of this state and the intent of the Legislature that funds made available, upon appropriation, for energy related public interest research, development and demonstration programs shall be used to advance science or technology that are not adequately provided by competitive and regulated markets.

(b) Notwithstanding any other provision of law, moneys collected for public-interest research, development and demonstration pursuant to this section shall be transferred to the Public Interest Research, Development, and Demonstration Fund of the Energy Commission ~~ to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 1, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall address the recommendations of the PIER Independent Review Panel Report, dated March 2000, to either transform the RD&D program within the Energy Commission, or to administer it through, or in cooperation with, an external organization. The initial investment plan shall include criteria that will be used to determine that a project provides public benefits to California that are not adequately provided by competitive and regulated markets. On or before March 31, 2006, the Energy Commission shall prepare an investment plan addressing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action~~ .

(c) In lieu of the commission retaining funds authorized pursuant

to Section 381 for investments made by electrical corporations in public interest research, development, and demonstration projects for transmission and distribution functions, up to 10 percent of the funds transferred to the Energy Commission pursuant to subdivision (b) shall be awarded to electrical corporations for public interest research, development, and demonstration projects for transmission and distribution functions consistent with the policies and subject to the requirements of Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code.

SEC. 7. Section 399.8 of the Public Utilities Code is amended to read:

399.8. (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.

(b) (1) Every customer of an electrical corporation, shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development and demonstration.

(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.

(c) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, through January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars ($228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars ($135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars ($62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the

lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

~~(f) (1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the Energy Commission a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the Energy Commission for renewable energy and research development and demonstration.~~

~~(2) The report shall also assess all of the following:~~

~~(A) Whether ongoing programs are consistent with the statutory goals.~~

~~(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.~~

~~(C) If established targets for increased renewable generation are likely to be achieved.~~

~~(D) What changes should be made to result in a more efficient use of public resources.~~

~~(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.~~

~~(4) For energy efficiency programs, the report shall include an evaluation of all of the following:~~

~~(A) The net benefits secured for residential customers, taking into account both public and private costs, including improvements in that customer group's ability to avoid or reduce consumption of relatively costly peak electricity.~~

~~(B) Whether the programs provide a balance of benefits to all sectors that contribute to the funding.~~

~~(C) The extent to which competition in energy markets including, but not limited to, load participation in ancillary services markets, and improvements in technology affect the continuing need for such programs.~~

~~(D) The status and growth of the private, competitive energy services industry that provides energy efficiency services and other energy products to customers.~~

~~(E) The commercial availability of any new technologies that reduce electricity demands during high-priced periods.~~

~~(F) Customers' willingness and ability to reduce consumption or adopt energy efficiency measures without program support.~~

~~(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided by markets and as a result have reduced energy demand and consumption.~~

~~(H) The relative cost-effectiveness of program expenditures compared to other current or potential expenditures to enhance system reliability.~~

~~(5) The report shall include specific recommendations aimed at assisting the Legislature in determining whether to change or eliminate the collection of the system benefits charge on or after January 1, 2007.~~

~~(6) The panel may update and revise the report as needed.~~

~~(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.~~

~~(h)~~

(f) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid disruption in renewable energy and public-interest research, development and demonstration programs, and to maximize the effectiveness of energy efficiency programs, thereby promoting the public health and welfare, it is necessary that this act take effect immediately.